

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

JUDGE JONES

ROGER R. CRANE, JR,

Plaintiff,

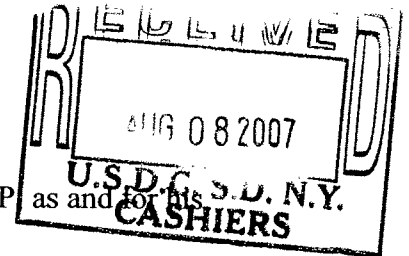
COMPLAINT

- vs -

POETIC PRODUCTS LIMITED,

Defendant.

FILE NO. 07 CIV 7063



Plaintiff, Roger R. Crane, Jr., by his attorneys, Nixon Peabody LLP as and for his S.D. N.Y.

Complaint against Poetic Products Limited, alleges as follows:

**NATURE OF THIS ACTION**

1. *The Last Confession*, a play authored by New York attorney Roger R. Crane, Jr. ("Crane"), is currently celebrating success in London, England, where it opened this year to rave reviews from critics and theatre-goers alike. The play is a historical mystery thriller surrounding the death of Pope John Paul I. The Pope's untimely death is renowned, and was of acute public interest in the late 1970's and early 1980's. In 1978, thirty-three days after his election, Pope John Paul I was dead. No official investigation was conducted, no autopsy was performed, and the Vatican's press release about the cause of death was found to be largely false. Mr. Crane's play is a gripping thriller that goes behind the scenes at the 1978 Vatican, uncovering the bitter rivalries, the political maneuverings and the unspoken crises of faith that surrounded the death of Pope John Paul I.

2. Defendant Poetic Products Limited ("PPL") is the copyright holder to a book authored by David Yallop entitled *"In God's Name: An Investigation Into The Murder of Pope*

*John Paul I'* ("*In God's Name*"). *In God's Name* is a self-proclaimed "classic work of investigative writing" about the death of Pope John Paul I. According to its preface, *In God's Name* was a product of nearly three years of research, and states that the reader should be assured that "all the information, all the details, all the facts, have been checked and double checked to the extent multiple sources were available."

3. While both *In God's Name* and *The Last Confession* focus on the mysterious death of Pope John Paul I, and, as such, share some common facts and some common conclusions, Yallop's book bears little resemblance to Crane's play. Nonetheless, PPL, through its counsel, claims that *The Last Confession* infringes *In God's Name*, threatens to sue Crane for copyright infringement, and has through correspondence, placed a cloud on the ownership rights of Crane in *The Last Confession*.

4. Apart from elements common to historical and religious facts and beliefs surrounding Pope John Paul I's death, *The Last Confession* is not substantially similar to *In God's Name*. There is no basis for PPL's claims of infringement, and Crane has filed this declaratory judgment action in order to resolve this dispute and obtain a declaration that *The Last Confession* does not infringe PPL's copyright or any other interests in *In God's Name*.

### **PARTIES**

5. Plaintiff Crane is an attorney who resides and practices law in New York, and is the author and exclusive copyright owner of *The Last Confession*. A certificate of registration for Crane's *The Last Confession*, Registration No. TX-4-640-311, is annexed hereto as Exhibit A. Crane holds another copyright registration for a shorter, revised version of *The Last Confession*, Registration No. PAu-2-801-288. The U.S. Copyright Office Record for this registration is annexed hereto as Exhibit B.

6. Upon information and belief, defendant PPL is a private company with a principal place of business at 58-60 Berners Street, London, England.

7. Upon information and belief, PPL is the copyright holder of the book *In God's Name*, authored by David Yallop.

8. PPL registered *In God's Name* with the United States Copyright Office, Registration Number TX-1-499-279.

9. *In God's Name* is published by Carroll & Graf Publishers, an imprint of Avalon Publishing Group, Inc., located at 245 West 17th Street, 11th Floor, New York, NY 10011, and is for sale in bookstores in New York City, and can also be purchased in New York and elsewhere via the internet.

#### **JURISDICTION AND VENUE**

10. Crane seeks a declaration of his rights pursuant to 28 U.S.C. §§ 2201(a) and 2202, in order to resolve an actual controversy within this Court's jurisdiction between the parties. Subject matter jurisdiction exists pursuant to 28 U.S.C. §§ 1331, 1332(a)(2) and 1338(a).

11. This Court has personal jurisdiction over PPL pursuant to N.Y. CPLR 302(a)(1) because, among other things, PPL, through its agent publisher located in New York City, is offering *In God's Name* for sale within the state of New York.

12. Venue is proper in this District pursuant to 28 U.S.C. § 1391.

#### **THE CONTROVERSY BETWEEN THE PARTIES**

13. On multiple occasions in June and July, 2007, PPL sent correspondence to Crane asserting that *The Last Confession* infringes PPL's copyright in *In God's Name*, and has communicated expressly to the publisher, director and producers of Crane's play that the play constitutes infringement and has threatened to seek an accounting and damages based on any

likely profits from future productions of *The Last Confession* or revenues received from film rights.

14. Crane responded to the letters, stating that Crane's *The Last Confession* does not infringe *In God's Name*.

**FIRST CAUSE OF ACTION  
(DECLARATORY JUDGMENT PURSUANT TO 28 U.S.C. § 2201(a))**

15. The allegations of Paragraphs 1 through 14 are realleged as if fully set forth herein.

16. The dispute created by PPL's claims of copyright infringement is an actual, substantial and justiciable controversy between the parties requiring resolution by the Court.

17. PPL contends that Crane copied *In God's Name*, and that Crane's *The Last Confession* infringes PPL's copyright for the same, and has expressly stated its claims for damages, an account of profits in respect to infringements of its copyright, and a right to seek preliminary injunctive or other relief.

18. Crane contends that the two works are not substantially similar, that any similarities are between the works are similarities between unprotectable elements of the works, and further contends that any use made by Crane of *In God's Name* was a fair use pursuant to 17 U.S.C. § 107.

19. Crane has no adequate remedy at law.

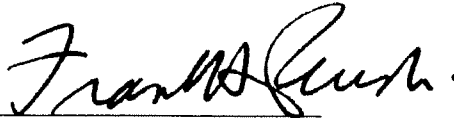
**WHEREFORE**, Crane demands the following judgment:

1. A declaration that Crane's authorship, publication and exploitation of rights in and to *The Last Confession* has not in any way infringed the copyright of PPL or any person or entity owning rights to *In God's Name* or any prior edition or version of the work, or otherwise violated any rights of PPL.

2. An award of attorneys fees in connection with this action.
3. For such other relief as the Court deems just.

Dated: August 8, 2007

NIXON PEABODY LLP

By: 

Frank H. Penski (FP 9221)  
Tamar Y. Duvdevani (TD 7603)  
437 Madison Avenue  
New York, New York 10023  
(212) 940-3000

*Attorneys for Plaintiff*  
*Roger R. Crane, Jr.*

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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	:	
ROGER R. CRANE, JR.,	:	
	:	Civil No. 07 CV 7063 (BSJ)
Plaintiff,	:	
	:	
- vs -	:	
	:	
POETIC PRODUCTS LIMITED,	:	
	:	
Defendant.	:	
	:	
-----	X	

**COMPLAINT  
EXHIBIT A**

# CERTIFICATE OF REGISTRATION



This Certificate issued under the seal of the Copyright Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

*Marybeth Peters*  
REGISTER OF COPYRIGHTS  
United States of America

## FORM TX

UNITED STATES COPYRIGHT OFFICE

REGISTRATION NUMBER

TX 4-640-311



TX TXU  
EFFECTIVE DATE OF REGISTRATION

Oct. 1 1997  
Month Day Year

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

### TITLE OF THIS WORK ▼

1 John Paul The Last Confession of Cardinal Giovanni Benilli

### PREVIOUS OR ALTERNATIVE TITLES ▼

**PUBLICATION AS A CONTRIBUTION** If this work was published as a contribution to a periodical, serial, or collection, give information about the collective work in which the contribution appeared. Title of Collective Work ▼

If published in a periodical or serial give: Volume ▼ Number ▼ Issue Date ▼ On Pages ▼

### NAME OF AUTHOR ▼

2 a Roger R. Crane, Jr.

**DATES OF BIRTH AND DEATH**  
Year Born ▼ Year Died ▼  
03/28/46

Was this contribution to the work a "work made for hire"?  
☐ Yes  
☒ No

### AUTHOR'S NATIONALITY OR DOMICILE

Name of Country  
OR Citizen of U.S.A.  
Domiciled in

### WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK

Anonymous? ☐ Yes ☒ No  
Pseudonymous? ☐ Yes ☒ No

If the answer to either of these questions is "Yes," see detailed instructions.

**NATURE OF AUTHORSHIP** Briefly describe nature of the material created by this author in which copyright is claimed. ▼

Text

### NAME OF AUTHOR ▼

b

**DATES OF BIRTH AND DEATH**  
Year Born ▼ Year Died ▼

Was this contribution to the work a "work made for hire"?  
☐ Yes  
☐ No

### AUTHOR'S NATIONALITY OR DOMICILE

Name of Country  
OR Citizen of  
Domiciled in

### WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK

Anonymous? ☐ Yes ☐ No  
Pseudonymous? ☐ Yes ☐ No

If the answer to either of these questions is "Yes," see detailed instructions.

**NATURE OF AUTHORSHIP** Briefly describe nature of the material created by this author in which copyright is claimed. ▼

### NAME OF AUTHOR ▼

c

**DATES OF BIRTH AND DEATH**  
Year Born ▼ Year Died ▼

Was this contribution to the work a "work made for hire"?  
☐ Yes  
☐ No

### AUTHOR'S NATIONALITY OR DOMICILE

Name of Country  
OR Citizen of  
Domiciled in

### WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK

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Pseudonymous? ☐ Yes ☐ No

If the answer to either of these questions is "Yes," see detailed instructions.

**NATURE OF AUTHORSHIP** Briefly describe nature of the material created by this author in which copyright is claimed. ▼

3 **YEAR IN WHICH CREATION OF THIS WORK WAS COMPLETED** This information must be given in all cases.  
1997 Year

**DATE AND NATION OF FIRST PUBLICATION OF THIS PARTICULAR WORK** Complete this information ONLY if this work has been published.  
Month 8 Day 5 Year 1997 Nation

4 **COPYRIGHT CLAIMANT(S)** Name and address must be given even if the claimant is the same as the author given in space 2. ▼

Roger R. Crane, Jr.  
c/o Bachner, Tally, Polevoy & Misher LLP  
380 Madison Avenue  
New York, NY 10017-2590

**TRANSFER** If the claimant(s) named here in space 4 are different from the author(s) named in space 2, give a brief statement of how the claimant(s) obtained ownership of the copyright. ▼

APPLICATION RECEIVED

OCT 01 1997

ONE DEPOSIT RECEIVED

OCT 01 1997\*

TWO DEPOSITS RECEIVED

REMITTANCE NUMBER AND DATE

**MORE ON BACK** • Complete all applicable spaces (numbers 5-11) on the reverse side of this page.  
• See detailed instructions.  
• Sign the form at line 10.

DO NOT WRITE HERE

Page 1 of 2 pages



EXAMINED BY

MS

FORM TX

CHECKED BY

☐ CORRESPONDENCE  
Yes☐ DEPOSIT ACCOUNT  
FUNDS USEDFOR  
COPYRIGHT  
OFFICE  
USE  
ONLY

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

**PREVIOUS REGISTRATION** Has registration for this work, or for an earlier version of this work, already been made in the Copyright Office?☐ Yes ☒ No If your answer is "Yes," why is another registration being sought? (Check appropriate box) ▼☐ This is the first published edition of a work previously registered in unpublished form.☒ This is the first application submitted by this author as copyright claimant.☐ This is a changed version of the work, as shown by space 6 on this application.

If your answer is "Yes," give: Previous Registration Number ▼

Year of Registration ▼

**DERIVATIVE WORK OR COMPILATION** Complete both space 6a & 6b for a derivative work; complete only 6b for a compilation.

a. Preexisting Material Identify any preexisting work or works that this work is based on or incorporates. ▼

b. Material Added to This Work Give a brief, general statement of the material that has been added to this work and in which copyright is claimed. ▼

**MANUFACTURERS AND LOCATIONS** If this is a published work consisting preponderantly of nondramatic literary material in English, the law may require that the copies be manufactured in the United States or Canada for full protection. If so, the names of the manufacturers who performed certain processes, and the places where these processes were performed must be given. See instructions for details.

Names of Manufacturers ▼

Places of Manufacture ▼

**REPRODUCTION FOR USE OF BLIND OR PHYSICALLY HANDICAPPED INDIVIDUALS**

A signature on this form at space 10, and a check in one of the boxes here in space 8, constitutes a non-exclusive grant of permission to the Library of Congress to reproduce and distribute solely for the blind and physically handicapped and under the conditions and limitations prescribed by the regulations of the Copyright Office: (1) copies of the work identified in space 1 of this application in Braille (or similar tactile symbols); or (2) phonorecords embodying a fixation of a reading of that work; or (3) both.

a ☐ Copies and Phonorecordsb ☐ Copies Onlyc ☐ Phonorecords Only**DEPOSIT ACCOUNT** If the registration fee is to be charged to a Deposit Account established in the Copyright Office, give name and number of Account.

Name ▼

Account Number ▼

**CORRESPONDENCE** Give name and address to which correspondence about this application should be sent. Name/Address/Apt/City/State/Zip ▼

Roger R. Crane, Jr.

c/o Bachner, Tally, Polevoy &amp; Misher LLP

380 Madison Avenue

New York, NY 10017-2590

Area Code &amp; Telephone Number ▶ (212) 687-7000

**CERTIFICATION** I, the undersigned, hereby certify that I am the

Check one ▶

☒ author☐ other copyright claimant☐ owner of exclusive right(s)☐ authorized agent of

Name of author or other copyright claimant, or owner of exclusive right(s) ▶

of the work identified in this application and that the statements made by me in this application are correct to the best of my knowledge.

Typed or printed name and date ▼ If this is a published work, this date must be the same as or later than the date of publication given in space 3.

Roger R. Crane, Jr.

date ▶

9/17/97

Handwritten signature (X) ▼

Roger R. Crane, Jr.

Name Roger R. Crane, Jr.

c/o Bachner, Tally, Polevoy &amp; Misher LLP

Number/Street/Apartment Number ▼

380 Madison Avenue

City/State/ZIP ▼

New York, NY 10017-2590

Have you:

- Completed all necessary spaces?
- Signed your application in space 10?
- Enclosed check or money order for \$20 payable to Register of Copyrights?
- Enclosed your deposit material with the application and fee?

MAIL TO: Register of Copyrights,  
Library of Congress, Washington,  
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CATE TOCertificate  
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indow  
velope

17 U.S.C. § 506(e) Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 408, or in any written statement filed in connection with the application, shall be fined not more than \$2,500.

U.S. GOVERNMENT PRINTING OFFICE: 1988-491-560/20,015

February 1988-200,000



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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	:	
ROGER R. CRANE, JR.,	:	
	:	Civil No. 07 CV 7063 (BSJ)
Plaintiff,	:	
	:	
- vs -	:	
	:	
POETIC PRODUCTS LIMITED,	:	
	:	
Defendant.	:	
	:	
-----	X	

**COMPLAINT  
EXHIBIT B**



## Search Records Results

Registered Works Database (Title Search)

**Search For:** LAST CONFESSION

*1 Item*

**For a list of commonly used abbreviations that appear in the catalog record, [click here](#).**

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1. Registration Number: PAu-2-801-288

Title: The last confession.

Description: 116 p.

Note: A play.

Claimant: acRoger R. Crane , Jr., 1946-

Created: 1997

Registered: 7Oct03

Title on © Application: John Paul; The last confession of Cardinal Giovanni Benelli.

Previous Related Version: Prev. reg. 1997, TX 4-640-311.

Claim Limit: NEW MATTER: additions & revisions.

Special Codes: 3/D

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